

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 7808 of 2007
Date of decision 22.05.2007.

Hans Raj

..... Petitioner.

versus

State of Punjab and others.

..... Respondents.

CORAM :- HON'BLE MR.JUSTICE J.S.KHEHAR.
HON'BLE MR.JUSTICE L.N.MITTAL.

Present : Mr. R.V.S.Chugh, Advocate for the petitioner.

J.S.KHEHAR.J. (Oral)

Through the instant writ petition the petitioner has impugned order dated 15.5.2007 (Annexure P-1) by which the petitioner has been transferred from Bareilly to Agrarian Faridkot. This action of the respondents has been impugned by the petitioner on account of the fact that the same violates the transfer policy issued by the State Government on 13.4.2007 (Annexure P-2).

The first contention of the learned counsel for the petitioner is that a Government employee, who is retiring within the next two years, may be allowed to continue in the same district or at the same station of posting

till retirement as far as possible.

Stricto sensu, the claim of the petitioner does not fall within the ambit of the aforesaid policy instructions on account of the fact that the petitioner is retiring on attaining the age of superannuation on 31.5.2009 which is beyond the prescribed period of two years.

Additionally, it is the contention of the learned counsel for the petitioner that an employee should not be transferred unless he has completed a minimum of three years stay at a particular place of posting. It is also the contention of the learned counsel for the petitioner that since the petitioner was posted in a rural area, he at best could have been transferred after a period of two years from the date of his posting at Bareilly.

We have examined the afore-stated contentions advanced by the learned counsel for the petitioner in the background of the policy instructions issued by the State Government.

It has now been repeatedly held that policy instructions on the issue of transfer are only in the nature of guidelines and are therefore only directory in nature. As such, it is not possible for a Court to enforce strict compliance therewith except when there are allegations of mala fides and/or extraneous considerations. Insofar as the present writ petition is concerned, the petitioner has levelled vague allegations of mala fides by asserting that his transfer has been made at the behest of an Akali candidate who had lost the election from Budhlada Constituency in the recent elections held in February 2007. The instant contention of the learned counsel for the petitioner cannot be taken into consideration on account of the fact that the petitioner has failed to implead the candidate against whom the aforesaid

allegations have been made.

In view of the factual position noticed hereinabove, and in the background of allegations of mala fides and extraneous considerations, we find no merit in the instant writ petition. The same is accordingly, dismissed.

(J.S.KHEHAR)
JUDGE

(L.N.MITTAL)
JUDGE

May 22, 2007
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